

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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THOMAS CORKER,

Plaintiff(s),

**REPORT AND
RECOMMENDATION**

-against-

CV 11-3607 (JS) (WDW)

COUNTY OF SUFFOLK, et al.,

Defendant(s).

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WILLIAM D. WALL, United States Magistrate Judge:

On November 3, 2011, the Court issued an Initial Conference Order directing the parties to appear for an initial conference on December 1, 2011 if the parties did not agree to the proposed scheduling order. Although the parties did not agree to the proposed scheduling order, Plaintiff failed to appear before this Court at the initial conference on December 1, 2011. Following the conference, this Court issued and mailed an order to Plaintiff directing him to “provide the County with a phone number where the plaintiff can be reached before the conference on December 20, 2011” and warning Plaintiff that “his case will be subject to dismissal” if he failed to appear. *See* Docket Entry [10].

Although the December 20, 2011 conference was adjourned, this court issued and mailed to Plaintiff a notice that a second telephone initial conference was scheduled for January 25, 2012. The notice again directed Plaintiff to provide a valid phone number. Plaintiff failed to provide a valid phone number and failed to appear at the conference on January 25, 2012.

Rule 41(b) gives the district court power to dismiss a complaint “for failure to comply with a court order, treating noncompliance as a failure to prosecute.” *Simmons v. Abruzzo*, 49 F.3d 83, 87 (2d Cir. 1995). Here, Plaintiff failed to comply with the court’s orders of November 3, 2011, December 1, 2011, and January 10, 2012. Since Plaintiff has failed to prosecute this matter and has not complied with the prior orders of the court, the undersigned recommends that the case be dismissed with prejudice, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

OBJECTIONS

A copy of the Report and Recommendation is being sent to all parties by electronic filing. Any objections to this Report and Recommendation must be filed with the Clerk of the Court within 14 days. *See* 28 U.S.C. §636 (b)(1); Fed. R. Civ. P. 72; Fed. R. Civ. P. 6(a) and 6(d). Failure to file objections within this period waives the right to appeal the District Court’s Order.

See Ferrer v. Woliver, 2008 WL 4951035, at *2 (2d Cir. Nov. 20, 2008); *Beverly v. Walker*, 118 F.3d 900, 902 (2d Cir. 1997); *Savoie v. Merchants Bank*, 84 F.3d 52, 60 (2d Cir. 1996).

Dated: Central Islip, New York
January 27, 2012

/s/ William D. Wall
William D. Wall
United States Magistrate Judge